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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,193	10/26/2000	Jeffrey D Pylant	29606.010200	4111
22191	7590	06/04/2004	EXAMINER	
GREENBERG-TRAURIG 1750 TYSONS BOULEVARD, 12TH FLOOR MCLEAN, VA 22102			HAMILTON, LALITA M	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/696,193

Applicant(s)

PYLANT, JEFFREY D

Examiner

Lalita M Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. The Applicant has cited Walker (6,085,169) in the specification but has not included it on the Information Disclosure Statement.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "405" has been used to designate both auction mechanisms and controller denies update and "406" has been used to designate both central controller updates data storage device and seller "B" good CSO. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 412, 602, and 603. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply

to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The Examiner respectfully requests that the Applicant go through both the specification and drawings to ensure that all of the reference numerals and elements correspond with one another.

Specification

The abstract of the disclosure is objected to because it is too long; in line 5, "goods of services" should be "goods or services"; in line 7, "condition's" should be "conditions"; in line 17, "condition's" should be "conditions"; in line 18, "offer's" should be "offers" and "seller's" should be "sellers"; in line 19, "offer's" should be "offers"; and in line 20, "seller's" should be "sellers". Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: On p.21, "402" should be "412".

Appropriate correction is required.

Claim 1 is objected to because of the following informalities: The use of he/she is improper. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Walker (6,108,639).

Walker discloses a conditional purchase offer system and method for conducting buyer-driven and buyer-executed electronic commerce transactions comprising the steps of providing a controller (fig.1: 200; col.5, lines 8-20; and col.5, line 58 to col.6, line 14) which allows a buyer to specify, via an electronic network, at least one term selected from the group consisting of minimum quantities agreed to purchase, minimum quantities acceptable, the minimum length of time to which it is agreed to be bound to purchase said minimum quantities containing said minimum quantities, and the maximum price to be paid (col.5, line 58 to col.6, line 14); and using said at least one term to generate a plurality of conditional sales offers from a corresponding plurality of sellers, using said electronic network to transmit at least one of said conditional sales offers to said buyer, and receiving via said electronic network said buyer's acceptance of said at least one conditional sales offer (fig.10a-d-all; col.9, line 60 to col.10, line 15; and col.11, line 47 to col.12, line 34—counteroffer whereby the buyer determines whether or not to accept the offer).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

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The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LMH